



To the Worshipful *deeg (9.)*
 Richard Hughes, *Esquire,*
 MAYOR of LIVERPOOL.

WORSHIPFUL SIR,

 INCE the Burgesſes ſubſcribed a very reſpectful Addreſs, complaining of Grievances they laboured under, and therein dutifully prayed your Worſhip's Regard for them; that as a Magiſtrate, placed at the Head of an important Truſt, you would not by your Silence ſhew you diſregarded them; nor by your future Conduct expreſs an Inclination to diſinherit them; your Worſhip has been pleaſed to permit a number of Gentlemen, deputed by the Committee for the Burgeſſes, to take upon them the Direction and Management of their public Concerns, as Freemen of this Corporation, to meet Gentlemen Members of the Common-Council of your own nominating, to diſcuſs Matters of the greateſt moment and concern, reſpecting the Burgeſſes Rights and Privileges. The neceſſary Conferences have been carried on, and by the Report which the ſaid Deputies for the Burgeſſes have laid before their Conſtituents, it very evidently appears, they have diſcharged the Duty of their Truſt with great Fidelity and Reputation, by having openly and clearly laid before your Worſhip the Grounds of Complaint, and ſtrictly attended to the anſwers given to them by the Gentlemen of the Common Council; which I hope cannot fail to appear to your Worſhip ſtrictly juſt in every Point, as you was pleaſed to attend the ſaid Conferences.

IT is Matter of concern to the Burgeſſes, they are unhappily neceſſitated to conſider themſelves as a Body of People diſcarded from the Notice and Regard of the Gentlemen of the Common Council; who they can look

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upon

upon in no other Light, than as Guardians and Trustees of, and for their Rights and Properties, and themselves too essential a Part of the Constitution to have their Rights as such made a Monopoly of by those Gentlemen. They now look upon themselves under a Necessity of endeavouring, by the most prudent Measures they can be advised to, to give a Check to the Progress of an illegal and unwarrantable Exercise of Power over them, which if not prevented, must evidently entail Vassalage upon them and their Posterity; unless, by your now knowing the true State of their Case, you will please, (as it is in your Power and humbly believed your bounden Duty) to exert yourself and prevent it.

As the Gentlemen Deputies, and the Committee for the Burgeses, have been pleased to permit my publishing the Report, with some Remarks distinct and separate from it, I take the Liberty of addressing them to your Notice — What comes from myself, I derive from my Knowledge of Transactions as a Member of the Common Council, and which I am ready to justify if publickly called upon. I beg leave to subscribe myself,

WORSHIPFUL SIR,

Your most obedient,

And very humble Servant,

LIVERPOOL,
July 13, 1757.



Joseph Clegg.

THE
REPORT
OF THE

Gentlemen deputed by the Committee
for the FREE BURGESSES,

To meet the Worshipful *RICHARD HUGHES*, Esq;
MAYOR, and such Gentlemen of the Council
as he pleased to appoint to a Conference, relating
to the Constitutional Charter Laws granted by several
Charters to the *Mayor, Bailiffs and Burgeses* of the
Borough and Corporation of LIVERPOOL, held the 20th
of *June*, and the 5th of *July* 1757, in order to intro-
duce, if possible, an amicable Accommodation of the
present Differences and Complaints.

IT was alledged, on the Part of the Common Council, That the
principal Matter of the Burgeses Complaint was, That Persons not hav-
ing the Right of Freedom, had not been excluded and hindred, as ought
to have been done, from using the said Right: That this Invasion of Right had
for long time been carried on, to the great detriment of the Free Burgeses:
That it was apprehended this had chiefly arisen from a Want of By-Laws,
regularly made according to the Charter, for preventing or punishing such
Invasion.

AND the said Deputies for the Council further alledge, That the said
Council had really and *bona fide* done their utmost to prevent and put an
Obstruction to such Encroachments upon the Privilege of Burgesship:
But that at present it appears the Sense of the Laws of *England* doth not
empower Corporations, by Force of any By-Laws of their own, however
made,

made, to support such exclusive Trade of **Freemen** : But that from various Instances of adjudged Cases, it hath been proved, that Aliens may, upon very easy Conditions, be defended in carrying on Trade within the Limits of Corporations, notwithstanding any exclusive Privileges mentioned to have been granted by Charters of Incorporation : That consequently the Burgesſes have not suffered in that Way for Defect of By-Laws made as expreſſed in the Charter or otherwise.

THEY, the Deputies for the Council, urged moreover, That notwithstanding there is not, as they readily owned, in the Charter a full expreſſion of Power granted to the Common Council to make By-Laws ; yet from some General Expreſſions enforced by the Circumſtances of Things in the Conſtitution of the Town, the Trade and Affairs thereof, and eſpecially for avoiding of numerous Inconveniencies, conſequent on the frequent Meeting of public Aſſemblies or Common Halls, for making By Laws, and determining other Affairs of the Corporation, it muſt neceſſarily be underſtood to be the Intention of the Charter, that the Common Council ſhall be, and is thereby inveſted with the Power they have uſed ; and eſpecially as the Burgeſſes at the Beginning of the Charter, and ever ſince, 'till very lately, have been quiet, and appeared ſatiſfied with the Conduct of Affairs, and have not made any Complaints, nor endeavoured at any Alterations till after ſixty Years peaceable Adminiſtration in that Way.

To theſe Allegations, on the Part of the Common Council, the Deputies for the Burgeſſes answered : That they apprehended, that had the exclusive Trade of the Corporation been guarded by By-Laws regularly made, according to the plain Preſcriptions and Requirements of the Charter, there would in all probability have been no one hardy enough to attempt any Encroachments upon, or any Violation thereof.

THAT as to the affair of Mr. *Fazakerly* in particular, the proceſs commenced againſt him, for invading the Rights of the Free Burgeſſes, in ſuch a ſhameful, extra-constitutional, and unprecedented manner, was dropped and ſuperceded, merely becauſe the *Managers* were aware, (not that there were no By-Laws to back the Proſecution, but) that the Laws made to defend the exclusive Trade, and other Rights of the Burgeſſes, were not of the Conſtitution and Form preſcribed by the Charter, and, for that Reaſon only, of no Force or Efficacy : And they believe, had a Common-Hall been regularly aſſembled, to give legal Force, Validity, and Sanction, to the By-Laws then ſubſiſting, for a guard of the Privileges granted by Charter, their Eſtabliſhment and Preſervation would, by that Proceſs, have been ſecured ; and all following Attempts of the like Nature have been effectually diſcouraged and prevented.

THEY

THEY further answered, That supposing, but not granting, the Truth and Validity of what was urged as above, on the part of the Common Council, yet there are other Reasons why they think it necessary, and highly prudent, to prosecute their View for reducing the Conduct of Public Affairs to the Charter Laws; and particularly, from consideration of the great Number of Instances, wherein they think it very clear that the Council hath, in Times past, made By-Laws, and practised divers Methods of Administration of the Public Affairs of the Town, very much inconsistent with the Design of the Incorporation, and the plain Meaning of the Charter, and to the very great Disadvantage and Injury of the Public Concerns and Private Properties and Interests of the Burgeses in general; whereof it is humbly presumed there will not a Denial be attempted.

AND they said further, That altho' of late the Gentlemen of the Council have seen Reason to act with greater Consistency and Regard to the Natural Rights, as well as the Charter Privileges, of the Burgeses; yet, as there have been several particular Instances of Conduct not a little disagreeable, and even Injurious; and as, while they remain in possession of their assumed Right of making By-Laws, without the concurrence of the Burgeses in general, they may, whenever they please, now, or in Time to come, enter into Measures destructive to the Interest of the Corporation and its Members, for prosecution of private, personal, or partial Schemes of Advantage or Emolument, as formerly done——That therefore the said Burgeses having, upon the maturest Deliberation, entered into Measures for Establishment of the Charter Privileges, for the Benefit of themselves and their Posterity, are determined to prosecute the same, unless prevented by an amicable Accommodation of all Differences, which from a true Zeal for public Peace and Advantage, they are very desirous of; being fully persuaded that the Quietness formerly shewn by the Burgeses under the injurious Invasions of their Privileges, was principally, or only, from an Ignorance what those Privileges were, the Charter having been given in a Language not obvious to many of them, and having been moreover, for very many Years, industriously concealed from all their Notices and Inspection, till, by a happy Accident, it fell into the Hands of a Gentleman qualified both with Skill and Zeal for the Public Good, to translate the same. The Silence therefore of their Predecessors, it is humbly apprehended, can be no longer a valid Argument to the present Generation, for sitting quiet and contented under a manifest Danger of having such injurious Steps of Administration resumed and put in Practice.

JULY

JULY 5th, 1757, At another Conference, for the same Purpose, was read a State of the Case, as drawn up by some Agents for the Common Council, in which sundry Particulars seem, upon the bare reading, to be imperfectly and partially represented and expressed, and with a very visible Intention to lead the Council into their own Sentiments and Views : And further that the Opinion of a very eminent and learned Counsellor thereupon, which was read at the same time, seemed not to have been quite clear and satisfactory, for several Reasons : Particularly because it was with much difficulty, delay, hesitation and opposition, that the Deputies for the Burgeses were allowed to have the same barely read over to them at all : That the Council absolutely refused to put the Case and Opinion into the Hands of the said Deputies, or any others, Agents for the Burgeses at large, that the same might be maturely and accurately weighed and examined : And that notwithstanding the Charges of drawing and obtaining the said Case and Opinion were defrayed out of the Public Stock of the Borough, wherein the Burgeses are all interested, and consequently the said Case and Opinion are the Property of the said Burgeses in general, and cannot be withheld, from their Use and Inspection without manifest injury : That as this is too evident to be made the least doubt of, it cannot but be apprehended, that the determinate withholding and even secreting the said Case and Opinion, must be from a Consciousness of something relative thereto, which will not bear the Light : And more particularly because the said great Man, who is said to have given the Opinion, did, when Attorney-General, upon the Occasion aftermentioned, declare, in conjunction with the Solicitor-General, the Council's Request for a Power to make By Laws (acknowledging they had then no such Power) was not to be granted, as being essentially inconsistent with the Charter.

THE Deputies for the Burgeses humbly conceiving it highly injurious to the Honour of Men of so much Eminence, Learning and Quality to be represented as chargeable with such inconsistent Declarations and Opinions touching Affairs so essential to the Being and Well-being of a Body of so much Importance, as is that of the Town of LIVERPOOL : And because, moreover, the same Opinion is, in some momentous Particulars, plainly and diametrically opposite and contrary to the Opinion of another very learned and eminent Counsellor at Law, read at the same time : And further, because the same is evidently contrary to the plain, indubitable Sense of the Charter of King *Charles* the First, expressly confirmed and enforced by his late Majesty King *William* the Third ; particularly with regard to one principal and essential Article of the said Charters, so fully expressed

expressed and ratified, as to leave no room for Doubt, Uncertainty or Enquiry, viz. concerning the Power of making By-Laws for the good Government of the said Borough; which are most evidently and undeniably instituted and appointed by the Charters, to be made by the Mayor, Bailiffs and Burgeses at large; but which the said Common Council have by a wrong Construction of, and in manifest contradiction to, the plain Expressions of the said Charters, and in Defiance of the same, injuriously assumed and taken into their own Hands, and practised to the very great Wrong, Oppression, and Injury of the said Burgeses, in innumerable Instances; whereof a few are herein after mentioned: And this Encroachment upon the Rights of the Burgeses, the said Council still endeavours and persists to hold and maintain, notwithstanding they have in a late public Address to his present Majesty and his Council for a new Charter, for confirmation and supplying deficiencies thereof, declared they have no such Power as before-mentioned; and which Request his said present Majesty and Council expressly refused to grant; as being a plain innovation essentially inconsistent with the original Import of the said Charter, and not to be indulged, except at the humble Request and Petition of the whole Body:

YET, notwithstanding all this, the Gentlemen of the Council still profess to believe and declare, that the Charter gives them a Power to make By-Laws; and with the same Justice and Equity of Interpretation they have all along believed, or acted as if they believed, themselves by the same Charter vested with a Power of filling up and replacing eventual Vacancies in their own Body, by appointment amongst themselves, and without the Concurrence of the Burgeses at large, notwithstanding the Charter expressly institutes, that such Vacancies shall be replaced and filled up *In the same Manner as other Vacancies by Death or Rejection* had before been accustomedly done, viz. by the free Election of the whole Body; and notwithstanding it is manifestly and *prima Facie* inconsistent with the Essence and Nature of Trust, that the Trustees should be constituted and appointed by any but those whom they are in Trust for; and that because of evil Consequences upon different Conduct too many and too gross to need particular mention.

It was further observed by the Deputies for the Burgeses, in the former Conference, that even supposing all things alledged by the Gentlemen Deputies for the Council, relating to the exclusive Privileges of Trade claimed by the Burgeses should be, or prove to be true, which they are by no means willing to grant, yet as there is a very great Estate by the Charter granted to, and vested in the Burgeses at large, it appeared to the said Deputies for the Burgeses, that it would be highly suitable to, and consistent with that Prudence and Justice they ought to act by, both for the present
Generation

Generation and for Posterity, to do their best Endeavour that the Administration of all the public Affairs and Interests of the Corporation should not any longer rest in the Hands of the Common Council ; especially as they are not, nor are willing to be appointed by the Burgessees at large, according to the Charter : But that every thing relating to the Public Interest should, agreeably to the plain Injunctions of the Charter, be under the Management and Direction of the whole Body of Freemen, or of such as they shall from time to time depute and appoint for that Purpose ; and of whose Fidelity, Conduct and good Management they may from time to time have particular and distinct Accounts, that they may be satisfied the Revenues and Profits of the public Estate are really applied and made use of for the public Good, and not perverted to Purposes foreign or contrary thereunto ; and particularly, that neither the present Generation, nor their Posterity may be liable to such injurious Abuses and Misapplications of the public Revenues, or any Part thereof, as have confessedly been heretofore shamefully practised in almost innumerable Instances.

Peter Whitfield.

Robert Seel.

Caryl Fleetwood.

Richard Townsend.

William Rowe.

TO THE
FREE BURGESSES
OF
L I V E R P O O L

GENTLEMEN,

AFTER having laid this REPORT respectfully before the Worshipful the MAYOR, as the principal constitutional Guardian of your Rights and Privileges, I am kindly permitted to be so far Master of Ceremony as to introduce it to your Notice and great Regard, as a concise and clear Representation of your Charter Rights, and the Methods by which the Possession and Enjoyment of them are attainable. The many repeated Applications which you have hitherto (but ineffectually) made for these Purposes are so well known, as not to require a Repetition : I shall therefore proceed to letting you know the Steps which have been since taken, with a few Remarks.

AT the last Assembly of the UNION SOCIETY, a considerable Number of Burgesses not of that Association, in Consequence of an Invitation, gave them the Meeting ; at which Time a Committee was appointed, consisting of a select Number of each Class, to have the Direction and Management of the Burgesses Concerns, untill another General Meeting was thought necessary to be summoned.

IN consequence of their being invested with this Trust, they delivered an Address subscribed by a great Number of the Burgesses to the worshipful the Mayor, therein representing their being sensible of various Grievances they laboured under, and respectfully praying for Redress.

SINCE that Time his Worship has appointed a Meeting of some Gentlemen of the Council, with some who are not Members of that Body, to a Conference relating to the Public's Concerns ; and the Substance of those

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Debates

Debates you have contained in the preceding REPORT, and their Integrity may be surely depended upon, untill you find it contradicted by the Gentlemen of the Council, who attended at the Conferences.

UPON a strong Presumption that the Advocates for an illegal Exercise of Arbitrary Power (for what is not supported by the Charter is such) will be complaisant enough not to publish any thing materially (if at all) contradictory to it, it leaves you at no loss to form a right Judgment of the true State of your Case as free Burgessees.

It is now plainly evident, (you need not deal in Doubts and Suppositions with yourselves, nor regard them if raised by others) what the Gentlemen interpreters of the Charter Laws, in favour of a Legislative Power resting in a Common Council aim at; and you may consider it as a Comment upon, or Interpretation of former Transactions: That there was very unjustifiable Management of the Public's Concerns formerly, was acknowledged by the Gentlemen at the Conference; but of late Years every Thing had been conducted after a very fair and impartial Manner, except in a few Instances of making the Members of the Common Council harder Bargains in renewing Leases than others. As to the former Part of what they acknowledge I readily agree with them; and if any one disputes the Veracity of their Assertion, I can easily comply with being an Advocate in their Favour: But as they acknowledge it, there is no Necessity of troubling you with Instances, unless they think proper to put the Negative upon their own Declaration. As to the other Assertion, I cannot pretend to say it is right, having nothing of that Kind recorded either in Memory or elsewhere, that I know of, to justify they are so.

THO' I cannot acquiesce with the Gentlemen in Opinion, that every thing has been rightly conducted in these late Years, yet I would not be thought to impeach their Veracity; but to refresh memory as to some Matters, and if I any way misrepresent them, I desire they will let me stand publicly corrected, that the Public may thereby know what is Truth.

It is about ten Years since the Ground upon the West Key of the South or Salt-house Dock was contracted and leased for; and instead of a Fine, a Ground-Rent of six Shillings per Yard was the Consideration for such Leases, and if I am not mistaken, the yearly Amount is near ninety Pounds, and a great Part of those yearly Rents due and owing at this Day: Whether it lyes carrying an Interest in aid of the Debt, which the Corporation pays interest for, I cannot say. For having not Permission to have recourse to the Public's Books, I can only give a Guess; and this I hope will be allow'd as an Apology, if it appears I am mistaken.

LATER

LATER then the Time abovementioned, there was a Scheme very secretly conducted, whereby to deprive the Burgesſes of a moſt eſſential Part of their Rights; which, had it ſucceeded, would have effectually riveted the Chains of Vaſſalage upon them; which was by a Petition to his preſent Maſteſty to inveſt a Common Council with a Power to make By-Laws. This Petition was drawn up in *London*; whether read, or only ſuch Heads of it as the Town-Clerk thought proper to mention, I can't ſay, (not being preſent) but the Common Seal was ordered to be affixed to it: And that I may not be accuſed of making a partial Representation of the Matter, I inſert a Copy of the Order of Council; which muſt convince every Body that the principal Article (the intended Miſchief to the Burgeſſes) had no Place in the Council Book, nor any Order for the Town Clerk going up to *London*.

THAT high Expectations were raiſed, was then plain; becauſe ſome Gentlemen of the Council, upon a Confidence of it's Succeſs, publicly expreſſed their Hopes, that in a little Time they ſhould not be obliged to make their Application to every low-priz'd Fellow of a Freeman, to be beholden to him for his Vote, or Words to this Effect.

I HERE inſert a Copy of the Order of Council, for the Common Seal being affixed to the Petition for a new Charter, dated the third of *April 1751*.

‘ A Petition drawn up by the Recorder being now read, for explaining
 ‘ the Charter of King *William* the Third, and for obtaining an additional
 ‘ Charter to the preſent one, for granting us an additional Number of
 ‘ Juſtices of the Peace for this Borough, and for impowering the Recorder
 ‘ to make a Deputy, and for granting the Sea Shoar to the Corporation in
 ‘ expreſs Words, be paſſed under the Common Seal of this Corporation,
 ‘ and be tranſmitted to the Recorder to prefer to his Maſteſty in Council,
 ‘ in order to obtain an Explanatory Charter for the above Purpoſes.’

IN the Petition for the laſt Charter, (which has been publiſhed, and to which I refer you) it is ſaid, ‘ That King *Charles* the Firſt granted a new
 ‘ Charter, and therein declares that the Mayor, Bayliſſs, and Burgeſſes,
 ‘ and the greater Part of them may make from time to time good and
 ‘ profitable By-Laws, Statutes and Orders in Writing, for the well-
 ‘ governing the ſaid Town, and the Burgeſſes, Tradeſmen and Inhabitants
 ‘ therein.’ And further in the ſaid Petition, immediately after reciting that
 ‘ a Common Council was granted by King *William*'s Charter, it's ſaid,
 ‘ Omitting to give them the leaſt Power in expreſs Words; tho' it was
 ‘ the manifeſt, if not ſole Intent of the ſaid Charter, to give Forty-one
 ‘ the Power in the firſt-recited Clause of King *Charles*'s Charter, in order
 ‘ to prevent the populous Meetings of the Burgeſſes, upon every trifling
 ‘ Occaſion’.

‘Occasion.’ I mention this, to shew there was no Scruple made of attempting to impose upon his Majesty and his Council, when by referring to the Charter, you will see there is no such Clause.

WHEN the Town-Clerk returned from *London*, and made his Report to the Council of the Success of his Negotiation, the Confusion I perceived in the Countenances of the Gentlemen, and (after a profound Silence for some time) expressing how well the Secret had been kept, as it was desired it should be, it occasioned my being desirous to find out what was the Occasion for so much Confusion, as I apprehended there was: But when I got by meer Accident a Sight of the Council Book (there being no Copy of the Petition in it) disappointment was my turn to be possessed of; and this put me under the Necessity of applying to a Friend, to procure me a Copy of it, where the Original was lodged; which when I was in the Possession of, and spoke about it, it was positively asserted to be spurious, until it was demanded to be compared, and then Cavil ceased.

By this particular Manner, in which I have stated this Matter, and endeavoured to make it clear and obvious to the meanest Capacity, I believe it will appear clear to you, that the Town-Clerk has been principally concerned, if not in the Contriving this destructive Scheme, yet in the Management and Conducting of it; and I hereby call upon him to explain to the Satisfaction of the Free Burgeses, whether I have done any Injustice to him, or the Public, by asserting a Falstity — If I have done so, it is his Duty, as a Servent to the Mayor, Bailiffs and Burgeses, as publicly to confute me, otherwise this, (if there was nothing else) must appear a flagrant Instance of Injustice to them. and a Failure in the Discharge of the Duty of his public Trust.

WHAT must Posterity think of a Mayor, a Recorder, a Town-Clerk, and a Common Council, when they find a Charter obtained in 1751, copied into the Council Book, and nothing mentioned expressing the Consent of the Mayor, Bailiffs and Burgeses, or so much as a Petition, as the Ground for an Application to his Majesty; and can it be looked upon in any other Light, than the Clandestine Application of a few, without the Consent of the Burgeses, or by Virtue of any Process in Law, to deprive them of their Rights and Privileges, just after the same Manner as was done in King *Charles* the Second’s Time? Is not this copying after a scandalous, exploded Pattern, which Gentlemen professing themselves Friends to Liberty, should be ashamed to patronize, by treading in the like Steps?

CAN the Town Clerk be looked upon as behaving in Character, after being ordered to state a Case on which to have an Opinion respecting the Council’s Right to make By-Laws, to secrete it from the Knowledge of
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of the Common Council, which he did in 1748: It was the then Recorder of *Exeter's* Opinion, that the Council had no Power to do it, without calling a Common-Hall; he saw likewise a Letter from the Recorder about that time, which express'd a strange Omission in the Charter, which he discovered when the Council retained in Mr. *Fazakerley's* Affair gave their Reasons for dropping the Cause, and paying Costs; he saw other Letters which mention'd not only the Recorder of *Exeter's*, but the Opinions of other Lawyers, all concurring.

THAT these Opinions, instead of being Motives to support the Burgeses Rights, should serve only as means, whereby to contrive Schemes to defeat them, is Conduct in my Opinion neither to be defended nor palliated.

THE Petition for a new Charter confesses King *William's* Charter gave the Common Council no Power to make By-Laws, and the Attorney and Solicitor General had the like Thoughts; for which Reason they advis'd giving no Sanction to it in the new Grant. Notwithstanding all this, have not the Common Council been blindfoldly led into pretended Suppositions that it meant as much, and thereby persist in it? And have they not pursued more rigorous measures in conducting public Affairs? Are they not exacting higher Fines from the Corporation Lease Tenants, apparently to the great Prejudice of the public Estate?

ALTHO' I am studiously prevented from knowing any thing more of the public's Concerns, than what occurs to my own Observation by attending Councils, I can venture to assert, that the yearly Revenue so far from encreasing, has been greatly diminished since 1749: For that Year the amount of Fines entered on the Council-Book, with the other Branches, amounted to upwards of three Thousand seven Hundred and fifty Pounds; which I can at any time make appear and justify, to the Satisfaction of any Burgeses that requires it; and this exclusive of the three Thousand two Hundred and forty odd Pounds, the Amount of Ground sold about the Graving-Dock.

By one means or other the public Debt greatly encreases; and a Decrease of the yearly income may verify a saying of Mr. Alderman *Gildart's*, (often repeated) *That we should be obliged to take up Money, to pay the Interest of what the public Estate owes.*

HAS there not been an alphabetical List of the Burgeses printed, whereby to know who opposed Mr. *Salisbury* at the last General Election for Members to serve in Parliament, and this secretly distributed to some, not all the Members of the Common Council?

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COULD this be intended otherways than for the Council to know who to scourge, for daring to Vote against that Gentleman ; and has it not been made use of ? Yes, it has ; and dare not be denied.

A Promise to remit to a Gentleman in Town a Fine of A Hundred Guineas, which was voted him to pay, in consideration for having a Lease, and that Promise made good, after his Voting for Mr. *Salisbury*, was so glaring an Instance of Upright Conduct, as to deserve the mention of in this Catalogue. I spoke publickly of it to a Brother Alderman, who strongly insisted upon it that it was not so ; until I referred him to Alderman *James Gildart*, who made the Bargain, and took Mr. *Salisbury* off the Hustings, during the time the Election was carrying on, to ratify the Agreement.—After this, I was indulged in speaking publickly of it, without being contradicted.

SINCE 1749 there have been two years, if I mistake not, of the Public Accounts settled ; and, I am certain, an Order of Council for printing them ; but it neither has been done, nor the said Order reversed. To what Secret Order this Omission is owing, I leave Mr. Town-Clerk to explain.

SINCE that time, I remember an Order of Council was made for discharging a Person from a Trust for which he had a Salary of Forty Pounds ; it being made to appear he had, in a most villanous and scan-Manner, suffered the Public to be cheated and abused : Notwithstanding this he was, by secret Appointment, allowed to continue one Year longer, if not more !

THERE is an Order of Council for the Town's Accounts being settled every Year, but it is publickly known a Regard has not been paid to it.

I REMEMBER in the time that the Gentlemen at the Conference acknowledged bad Things were done, a Committee met regularly, and examin'd all Tradesmen's and Workmen's Bills ; if they found them to be right, they were enter'd in the Committee Book, and the Persons attending the Committee subscribed their Names, or at least the Initial Letters, and that Book was brought before the Council, and had the Sanction of their Approbation before the Money was allowed to be paid : And I remember, in those Days of Bad Conduct, the Treasurer always brought his Cash-Book to be looked at by any Member of the Council ; and likewise that any Member of the Council, desiring to see the Council-Book, might have it put into his Hands to read in as long as he pleased. I am very certain I was so indulged, till Mr. Town-Clerk thought proper to deny me the Liberty, without having a special Order
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of Council for such Indulgence ; and this happen'd at a time when two Gentlemen of the Council were looking into it, who had not any more special Leave than myself : However, a special Memory, (which Mr. Town-Clerk some time since allow'd me to have) with the use of Pen, Ink and Paper, has enabled me to mention Truths which his great Abilities have not yet enabled him either to contradict, or so much as to attempt it.

WHEN the Treasurer's Accounts (previous to their being laid before the Council) were examined by a Committee, the Council-Book was as necessary to be produced as the Treasurer's Cash Book ; because the Order there justified his right to pay, and the Receipt was a Voucher that he had done so. This was in the Days of Bad Management ; but in these later Days of Upright Conduct, we are governed by Faith, not Evidence, whether there is so much as a Cash-Book ; and Committees, or private Cabals, direct Payments ; so that they may be looked upon as petty States under a supreme Head, who in that capacity has little Cognizance of what should be Public Affairs. In former Days the Rights and Liberties of the Free Burgeſſes were greatly regarded. I can mention one that was committed to Prison, and lay there some time, for opening a Shop, after he had duly served seven Years Apprenticeship to a Freeman, without being first sworn a Free Burgeſſ ; and another, who by the Intercession of good Friends narrowly escaped the like Treatment, for a Crime of a similar Nature.

FROM the time that King *William* granted a Confirmation Charter to this Corporation, until late Years, Persons desiring to settle in Town, having no right to Freedom, made Application by way of Petition, with often times the Intercession of Friends, to be admitted Free Burgeſſes ; and Mr. *Fazakerley* took the same Method ; but a Counter Petition from the Watchmakers prevailed upon the Council to reject him : However, he came into the Town, and opened a Shop : This brought on a Prosecution in our own Court, and a Verdict being given against him, he had a Fine (if I remember right) of Three Guineas set upon him, which he paid ; after which he brought his Cause into a superior Court, and Council were retained by the Common Council ; but, previous to a Hearing, they were advised to drop it, and pay Costs, which was accordingly done ; and the Reason given by the Lawyers was, Because we had not a constitutional By-Law : the failure at that Time was looked upon to lie there, and only there. This the Report fully explains.

It appears, by the Report of the Deputies who attended the Conference, that the Plea of Usage and Custom was not insisted upon ; but if
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it should be brought upon the Carpet, the Date of King *William's* Charter is not immemorial ; but that the Mayor, Bailiffs and Burgesſes, tranſacting the public Buſineſs of the Town is, to my Knowledge from inſpecting the Records, very much ſo ; from 1571 to 1580 Buſineſs was done by the Mayor, Bailiffs and Burgesſes, no mention of a Common Council. In 1580, *Edward Haſſall* Mayor, there was a Common-Hall, at which they formed a Common Council, and gave them an extenſive Power, which they continued in poſſeſſion of only one Year, in which time they gave the Burgesſes a Surfeit, (as may well be imagined) by one Order which was then made, *viz*, That if any Perſon applied for a Place in the Corporation, and got a Friend to recommend him, he ſhould not only be deprived of what he fought for, but ſhould be diſfranchiſed. After this Year the Burgesſes appear to be again intereſted in managing the public Concerns ; and what could be the Inducement of a ſelected few, to apply for a Charter in King *Charles* the Second's Time, and by that get themſelves in the Form of a Common Council to be inveſted with a Power, but to ſhake off the Burgesſes from any Share of Direction along with them ?

THERE ſeems to be no Room to ſuppoſe any Miſtake made in the Penning the Charter of King *William*, nor did the Attorney and Solicitor General apprehend any ; but they ſoon diſcovered one in the Petition preſented in 1751, which if they had overlooked, would have been a moſt egregious Blunder ; becauſe every Grant contained in King *Charles* the Firſt's Charter, is made to the Mayor, Bailiffs and Burgesſes, and no Appointment of a Common Council mentioned in it. The Charter of King *Charles* the Second contains the firſt Appointment of a Common Council ; whoſe Exerciſe of Arbitrary Power, (which the Burgesſes felt the bad Effects of,) occaſioned an Application to King *William* to be relieved from. It admits of no Diſpute, but the Burgesſes petitioned King *William* to have a Common Council eſta bliſhed, and that it was done agreeable to the Prayer contained in it : But to ſuppoſe they would petition only for a Change of Men, to be inveſted with the like Power as thoſe under King *Charles* the Second's Grant were inveſted with, is too groſs an Abſurdity to be advanced as an Argument.

UNDER the Charter of King *Charles* the Firſt, the Burgesſes were an eſſential Part of the Conſtitution ; having the Power of making By-Laws, along with the Mayor and Bailiffs, or one Bailiff : This being granted, could not be taken from them, but by their own Conſent, nor any Way altered ; and if not by the Prince himſelf, moſt certainly not by a Common Council. The Mayor, Bailiffs and Burgesſes, legally ſummoned
and

and assembled, can only make By-Laws, in themselves valid and binding : Therefore the Exercise of illegal Power, as it is unjustifiable, so it is punishable.

Now as King *Charles* the First established a Power in the Mayor, Bailiffs and Burgeses to make By-Laws, King *William* only confirmed, *not gave it* ; so that there was no Occasion to petition for what they were in actual Possession of by their legal Charter : Therefore that Power must, and did exist in the Mayor, Bailiffs and Burgeses, and could not be taken from them by King *William*, unless it can be made appear, it was a Part of their Petition to be divested of it ; which I think Mr. Town Clerk's Depth of Penetration, with the Recorder's Assistance, will not be able to discover. I think it plain the Common Council, by King *William's* Charter, were by it invested with as much Power as was really intended. Then the Power of supplying or filling up Vacancies, as such happen, rests in the Mayor, Bailiffs and Burgeses ; and without this, I do not see how it is possible to reconcile the Charter of King *Charles* the First confirmed in every Point by King *William's*, so as to make it consistent with his own Charter Grant : For King *Charles* the First, Page the 5th of the Translation of the Charter says, they shall choose one of the Burgeses to be Mayor, and likewise two of the Burgeses to be Bailiffs : Here is no Restriction, further than to the Class of Burgeses.

KING *William's* Charter says, Pages 20, and 21, ' There shall be ' forty-one honest and discreet Men of the Burgeses of the Town, who shall ' be and be called the Common Council of the said Town ; of which *forty-* ' *one* there shall be one honest and discreet Man, who shall be, and be called ' Mayor of the said Town, and two honest and discreet Men, who shall ' be, and be called Bailiffs of the said Town.' Here is a restrictive Power. Now as the Body of the Common Council are a distinct Class, out of which number Mayors and Bailiffs are to be chosen, therefore unless the Burgeses choose Members into Council, it is the Common Council, not themselves, who choose Mayors and Bailiffs, which is unconstitutional in the most plain and strict Sense and Meaning of the Word. This is plain, open, and fair Reasoning, according to my best Judgment of Things ; and unless it can be as plainly confuted, it ought to be conclusive ; and the more so, because the Oath which a Burgess of the Council takes, at his being admitted such, engages him to *do his reasonable Endeavours from time to time for the Furtherance and Advancement of the common Profit and Commodity of the Town ; and to his Power to maintain the Liberties and Franchises thereof, without doing or committing any Act or Thing, wittingly or willingly, whereby the same may in any wise be impaired or infringed :*

So that when the Constitutional Laws are known, and an Observation of them not regarded, the heinous Crime of *Perjury* lies in this Quarter, not in declaring to the Burgesses, that the Common Council are pursuing wrong Measures; and if such, as a Person, who considers himself a Member in Trust, looks upon as having a Tendency destructive of their Rights and Privileges; I apprehend, in this Case, he has a *just Cause and reasonable occasion* to divulge, what he cannot justify himself in keeping secret.

THERE was a Remonstrance sent to the Mayor and Council in *May* 1756 by the UNION SOCIETY, in which there was, among other Things, a respectful Proposal, to have a Conference between some Gentlemen of the Council and other Free Burgesses, in order to the Discussing some Points, wherein the Gentlemen of the Council and the Burgesses differed, respecting the Public Concerns of the Town, which was denied a Compliance with: However the Gentlemen of the Council said, they would have a Case drawn up to be laid before an eminent Council, and the Burgesses might draw up theirs.

A FEW Days after this, they, the Burgesses, Members of the UNION SOCIETY, sent Duplicates of their Case, founded upon the Charter Laws, to two Gentlemen, and had two different Council's Opinions, which agree in all the material Points, clearly in favour of the Burgesses Rights, and thereby confirm the Opinion of an eminent Council, taken about nine Years since, but not laid before the Council; nor were they so much as made acquainted with it: However, if it is not thought proper to be made known to them, the Burgesses do not want it; for I found Means, by meer Accident, to procure a Copy of it, and is agreeable to the Burgesses wishes.

SINCE that time, I sent up the Translation of the Charter, with the Pamphlet I published, to a hearty and sincere Friend to Liberty; a Gentleman of most copious Knowledge of, and Acquaintance with, natural Constitutional Charter Rights, as every Person must be satisfied of, who are not Strangers to his Publications upon that Subject: This Gentleman has been so indulgent to favour me with his Opinion of our Constitution, in a more clear, plain and full Manner, according to my Judgment, than all the other Opinions I have seen or heard of, put together.

AT the former Conference on the 20th of *June*, what the Advocates for the Council's Power alleged, relative to Aliens, is so fully taken notice of, in the Report, that it is unnecessary to mention any thing farther, than only to remark to you, That the Gentlemen, Conservators of your Rights and Privileges, had studied the Point; and had much more to say in favour of Aliens, than should be advanced by Gentlemen, who desire to be
thought

thought faithful and kind Guardians ; and if the Constitutional Laws are made the Rule of Government, I apprehend you will find yourselves as yet no Sufferers by any wilful Neglects, for the sake of maintaining the Exercise of illegal Power.

I MUST acknowledge that Corporate Bodies, generally speaking, make but a Droll Figure in Courts of Judicature ; as it is seldom that the Rights of a Community, but the Exercise of their lawless Power bring them to that Bar.

MUST it not appear surprizing to the Burgesses, when it is known how much Difficulty has attended the Obtaining the Liberty of a Conference upon Affairs of so great Consequence, not only respecting their present Interests, but those of Posterity ? That it must admit of so much deliberate and weighty Consideration, as even to be thought necessary to summon a special Council, to determine whether it was proper to let the Burgesses Deputies be indulged with a Cursory reading a Case and Opinion, *the Formidable Rod*, prepared to whip the Burgesses out of their Rights, (but I hope not out of their Senses) when it's consider'd, that it is their own Property ; bought and paid for with their own Money.

How far this sort of Conduct quadrates, or is of a Piece with an *October* Address to you, is to be best judged of by the following Letter ; of which Mr. Town Clerk has several hundred Copies in his own Custody, (and which you have paid for) unless he has, in Point of Prudence, passed Sentence, and caused Execution, by committing them to the Flames : *The just Fate of all Libels.*

T O T H E
W O R T H Y B U R G E S S E S
O F T H E
C O R P O R A T I O N o f L I V E R P O O L.

GENTLEMEN,

‘ **W** H E R E A S it has been falsely and maliciously
‘ reported in this Town, with a View, no doubt,
‘ to inflame the Minds and impose upon the Understandings
‘ of many of you, and thereby to disturb the Peace, Order,
‘ and

' and good Government of the Town, That the Common
 ' Council of this Corporation have lately attempted, by their
 ' Petition, to procure to themselves not only the Election of
 ' Mayors and Bailiffs, but also the Election of Representatives
 ' in Parliament for the said Borough and Corporation, and
 ' to subvert and alter the fundamental Constitution of the
 ' Town ; This is therefore to assure you, that the *sole and*
 ' *only View* of preferring the said Petition to his present Ma-
 ' jesty by the Common Council, (praying an Explanatory
 ' Charter only on the several Matters therein contained)
 ' was to vest the said Common Council with a Power to
 ' make such Orders and By-Laws as would effectually prevent
 ' Foreigners from exercising and following the Faculty of
 ' Free Burgesſes in this Corporation, without being free of the
 ' ſame ; ſuch Power being manifeſtly intended them, (if not
 ' already given them) by the Charter of King *William III.*
 ' And further to aſcertain and ſecure to the Mayor, Bailiffs
 ' and Burgeſſes, their Right, Title and Claim to ſome Part
 ' of the Public Eſtate then in doubt. And that there never
 ' was any Deſire, Requeſt, or the leaſt Intention to fix the
 ' Elections of Magiſtrates or Members of Parliament, or any
 ' other Miniſter or Officer of the ſaid Corporation, in the ſaid
 ' Common Council ; nor any other ways to alter the Corpo-
 ' rate Conſtitution, or Rights of Election, from the preſent
 ' known and eſtabliſhed Rule and Practice. And, further to
 ' aſſure you that the ſaid Gentlemen of the Council will give a
 ' full and ſariſfactory Answer, as from their *Upright Aſſings*
 ' *and Intentions* they are well ſatiſfied they are enabled to do,
 ' to any Pamphlet or Paper which ſhall or may be published,
 ' in relation to this Application, charging them with any ſuch
 ' wicked or ſiniſter Views and Deſigns : Such groundleſs and
 ' unjuſt Reports being made and calculated by reſtleſs Minds, to
 ' provoke and ſtir up ſome unwary Burgeſſes againſt the Com-
 ' mon Council, their Friends, and that worthy Gentleman Mr.

Charles

‘ Charles Goore, who hath been so strongly sollicitd and pre-
 ‘ vailed upon, by many of the principal Merchants and other
 ‘ considerable Burgeses both in and out of Council, to offer
 ‘ himself a Candidate for the Office of Mayor. Therefore, for
 ‘ your present Satisfaction, the Copy of the Petition is submitted
 ‘ to your Judgment, whether on the Face thereof the said
 ‘ Charge on the said Council is just or not : And, Gentlemen,
 ‘ the Reason why this Application was not made public at the
 ‘ Time it was in Agitation, was, that they could not, consistent
 ‘ with their Duty as Guardians and Trustees of the public E-
 ‘ state, discover it to your Enemies and Opponents ; by whom
 ‘ *we mean* those Foreigners who were invading your Rights,
 ‘ by following their Trades in Town, and others who were at-
 ‘ tempting and threat’ning to take Part of the Public Estate
 ‘ from you. And we repeat it again, that for those, and only
 ‘ those, good and just Ends was the Petition preferred.

ALL which Premises you are desired impartially and coolly
 to consider ; they being order’d to be laid before you for
 such Purpose,

By, GENTLEMEN,

Your very humble Servants,

Fellow Burgeses, and real Friends,

*The Mayor, Bailiffs and Burgeses, of the
 Corporation of Liverpool.*

I HUMBLY suppose the same Reason given for secreting the Petition for a New Charter will stand good for their desiring to secrete the Case, with the Opinion upon it, respecting your Rights as Free Burgessees, and prevent giving Mr. Town Clerk the Trouble of a Repetition.

It must surely be Matter of Surprize to every Person (not destitute of common Sense) to think how Gentlemen, professing themselves *only Guardians and Trustees*, should, for the sake of maintaining a lawless Power, prostitute their Honour, Reason and Judgment, by not scrupling to attempt imposing upon his present Majesty and Council in so flagrant an Instance, as by offering their own Interpretation of the Sense and Meaning, to be the Intention of his late Majesty King *William* the Third; which (had it been adhered to) must have render'd the Charters both of King *Charles* and King *William*, heaps of Inconsistency and confused Nonsense: And after being told by the Attorney and Sollicitor General, that it was unconstitutional, and could not be complied with, to dress up another Case, tending to answer the like Purposes, in a different Garb, evidently and plainly leading to be countenanced with an Opinion destructive of the Burgessees Rights, under the Council's Guardianship, and after having thus modelled it, to lay it before the same Gentleman, who was then Attorney General, but now deservedly invested with higher Rank and Title, whereby to furnish themselves with a pleasing Contradiction of his former Opinion, is, I think, using a Gentleman of so much eminence, and the Free Burgessees, very coarsly. This is what the Gentlemen Deputies have remarked in their Report, but I have chose to take notice of it a little more particularly; as you cannot but consider yourselves in a very disagreeable Situation, when you see both your Priveleges, with Respect to Power, and your Property with Respect to Money, Sinking at the same time.

THE Gentlemen Deputies for the Common Council have readily allowed, at the Conferences, that very bad things have been done formerly by the Corporate Body; but it was before their Time. For my own Part, I cannot find, by all the Penetration that I am Master of, that we are mended; but with respect to an arbitrary Exercise of Power grown worse: And, to corroborate my Opinion of Matters, I have mentioned some particular Circumstances too clear and obvious to the Public, to admit of a Denial; and as Mr. Town Clerk is well known to have acted a very considerable Part in these Days of Upright Conduct, I desire he will explain himself to the Burgessees upon the Remarks I have made; especially which which relate to his own Management, as being invested with a more particular Branch of Duty in Trust for the Public: If he pleads Innocence of bad Intentions,

tentions, he must in support of that Plea, plead Ignorance, and thereby allow himself to be only in the *ABC* Book of Knowledge of the Constitutional Affairs of the Corporation.

AT the Conferences there was a Demand made of the Money paid by Alderman *Pole* to the late Mr. *Salisbury*, and the Reply was, They had not to do with it, but left that Gentleman to answer for himself — If this is the Case, you have an easy Remedy in your own Hands, when you think proper to make use of it.

By the Report of the Deputies for the Burgesses, it is evident to the clearest Demonstration, that the Deputies for the Council, have confessed and acknowledged the Common Council have no Charter Right to make By-Laws, nor to appoint Members of their own Body, as Vacancies happen — That usage and Custom is no Plea in their Favour (the Charter of King *John* being within legal Memory) That they cannot support an Action against an Alien for invading the Burgesses Rights, having no constitutional By-Law for such Purpose: Therefore it is plain and evident they cannot support an Action against any Lease Tenant for Rent, or Fine for Lease, or other Debt due to the Public Estate, until they have a constitutional By-Law to invest them with such Power.

AND you may further observe, That you have hitherto taken all the prudential Steps to have differences settled after the most pacific Manner, and your public Concerns constitutionally so directed, that thereby you might know where your Strength or Weakness lay, with Respect either to Aliens or other Matters, but have met with no Countenance — Therefore, as illegality is only upon Sufferance, the Road to be in Possession of your Rights, is, I hope, plainly pointed out.

I am,

GENTLEMEN,

Your very humble Servant,

LIVERPOOL,
July 13, 1757.

Joseph Clegg.

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